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1724



PATENT
Serial No. 10/019,239; Filing Date May 13, 2002
Examiner Duane S. Smith; Art Unit 1724
Attorney Docket No. von Kreisler.019

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for National Phase
Filing in the United States of

Applicant: Jörg Peter Schür

Serial No.: 10/019239

Examiner: Duane S. Smith

Filing Date: May 13, 2002

Group Art Unit: 1724

Based on International Application

No. PCT/EP00/03993

Filed April 4, 2000

Priority Date: July 7, 1999

For: **METHOD AND DEVICE FOR ENRICHING AIR
WITH AN AIR TREATMENT AGENT**

Certificate of Mailing Under 37 C.F.R. § 1.8(a)

I hereby certify that the document entitled **Applicant's Response Under 37 C.F.R. § 1.111 To United States Patent and Trademark Office Examiner's Action** is being sent by first class mail, postage prepaid, in an envelope properly addressed to "MAIL STOP —RESPONSES — NO FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450."

February 22, 2004
Date of Certificate

John S. Child, Jr.
John S. Child, Jr.

Authorization To Charge Deposit Account

In the event the check is improper, or the fee calculation is in error, the Commissioner is authorized to charge any underpayment or credit any overpayment to the account of the undersigned attorneys, **Account No. 04-1406**. A duplicate copy of this sheet is enclosed for fee-processing, if necessary.

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A Professional Corporation

John S. Child, Jr.
John S. Child, Jr.
PTO Registration No. 28, 833



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To: **MAIL STOP — RESPONSES — NO FEE**
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICANT'S RESPONSE UNDER 37 CFR § 1.111 TO UNITED STATES PATENT AND TRADEMARK OFFICE EXAMINER'S ACTION

Dear Sir:

I **Introduction**

Applicant's Response is to an United States Patent and Trademark Office Examiner's Action in the form of a ***Notice of Non-Compliant Amendment*** (***37 CFR 1.121***) dated January 23, 2004. The ***Notice of Non-Compliant Amendment*** provided a time period of one month from the mailing of the notice, i.e., until February 23, 2004, within which to re-submit the corrected section of the non-compliant amendment. Accordingly, Applicant's Response is timely as it is being filed on February 22, 2004, with a Certificate of Mailing Under 37 CFR § 1.8.

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II Applicant's Review of the Status of the Application

A. Status

Applicant notes that the prior Office Action issued September 25, 2003, stated that the application was in condition for allowance except for formal matters and that prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 P.G. 213.

B. Disposition of Claims

Applicant further notes that in the prior Office Action issued September 25, 2003, pending claims 2–9, 11–19 and 23–26 were allowed.

III Applicant's Response to the Legal Instruments Examiner's Objection Regarding Amendments to the Claims

As to Item 4, *Amendments to the claims*, the Legal Instruments Examiner checked “C,” which reads, *Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.*” Accordingly, Applicant presents below a full listing of the claims of the application and notes the status of each claim.

And further, in Item 4, *Amendments to the claims*, the Legal Instruments Examiner checked “E, Other,” and wrote in the instruction quoted below:

All claims has been either amended, cancelled, added or nothing. Please include all claims with proper status identifiers. Please include the markup version.

Applicant believes that the ***Notice of Non-Compliant Amendment*** was issued in error as there were no claim amendments in Applicant’s Response to the prior Office Action issued September 25, 2003. Rule 1.121(b), which covers amendments to the specification, does not provide for the

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submission of a claim listing when a response contains amendments only to the specification. The requirement for a claim listing is set forth in Rule 121(c), 37 CFR § 1.121(c), which covers amendments to the claims. Rule 121(c) states:

Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims in the application.

Although the ***Notice of Non-Compliant Amendment*** appears to have been issued in error, Applicant has complied with the Notice in view of Applicant's duty under 37 CFR § 1.111(b) to reply to an Office Action.

Applicant's presentation below of a full listing of the claims of the application with the appropriate status-identifier of each claim provided parenthetically, is believed to comply with the Legal Instruments Examiner instruction and with 37 CFR 1.121. As there are no claim amendments being made in this Response and in Applicant's prior response, there are no marked up claims.